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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

IN RE: TOYOTA MOTOR CORP.
UNINTENDED ACCELERATION
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION,

No. 8:10ML2151 JVS (FMOx)

**STIPULATED SECOND INTERIM
PROTECTIVE ORDER RE
PERSONALLY IDENTIFIABLE
INFORMATION**

THIS DOCUMENT RELATES TO:
ALL CASES

1
2 The Court has ordered that the Toyota defendants produce certain
3 documents which are discoverable under the Federal Rules of Civil Procedure that
4 have been produced to the United States Congress, the National Highway Safety
5 Administration (“NHTSA”) and the State Attorneys General. Such order did not alter
6 the scope of documents that ultimately may be discoverable, nor did it limit
7 objections to production on the basis that a document is not relevant or is shielded by
8 any applicable privilege, including but not limited to the attorney-client privilege
9 and/or the work product doctrine.

10 There was no detailed discussion about the redaction of personally
11 identifiable information at the Court’s May 28, 2010 hearing, and it was not
12 specifically addressed in the Court’s Order No. 3. Certain documents containing
13 personally identifiable information were produced to the United States Congress and
14 the State Attorneys General with such information redacted. The documents
15 produced to the NHTSA were not redacted. By statute, the NHTSA must not disclose
16 such personally identifiable information. See 5 U.S.C. § 552A.

17 The redacted documents produced to the United States Congress and
18 the State Attorneys General will be produced pursuant to the Court’s order as
19 they were produced to those entities. Production to plaintiffs of documents
20 containing personally identifiable information which were produced to the United
21 States Congress, the State Attorneys General, and the NHTSA without the
22 personally identifiable information being redacted may be a violation of the
23 individuals’ rights of privacy and a violation of domestic and foreign law with
24 respect to any U.S. and foreign personally identifiable information, including but not
25 limited to, Directive 95/46/EC of the European Parliament and of the Council of 24
26 October 1995 on the Protection of Individuals with Regard to the Processing of
27 Personal Data and on the Free Movement of Such Data, 1995 O.J. (L281/31);
28 Personal Information Protection and Electronic Documents Act (PIPEDA), S.C.

1 2000, c. 5 (Can.) and The Personal Information Protection Act (Law No. 57 of 2003)
2 (Japan).

3 IT IS HEREBY STIPULATED that documents produced pursuant to the
4 Court's Order No. 3 by the Toyota defendants containing personally identifiable
5 information shall only be produced to Plaintiffs' co-lead counsel *and employees and*
6 *experts currently on the case* and members of the Personal Injury/Wrongful Death
7 and Economic Loss Class Action committees identified as follows: Mark P.
8 Robinson, Jr., Elizabeth J. Cabraser, Lewis S. Eidson, W. Mark Lanier, Richard D.
9 McCune, W. Daniel "Dee" Miles, Brian Panish, Hunter J. Shkolnik, Donald H.
10 Slavik, Steve W. Berman, Frank M. Pitre, Marc M. Seltzer, Richard J. Arsenault,
11 Benjamin L. Bailey, Stanley M. Chesley, Jayne Conroy, and Michael Louis Kelly,
(hereafter "Plaintiffs' Counsel");

12 IT IS FURTHER STIPULATED that the documents produced pursuant
13 to the Court's Order No. 3 containing personally identifiable information, or any of
14 the information contained therein, shall not be shared or provided to any other
15 persons outside of the above listed individuals, and attorneys and staff working for
16 said individuals, and such documents will be identified by the legend, "PII Restricted
17 Access" or other equivalent legend indicating the document(s) contains personally
18 identifiable information;

19 IT IS FURTHER STIPULATED that the documents produced pursuant
20 to the Court's Order No. 3 containing personally identifiable information, or any of
21 the information contained therein, shall not be used or disclosed by Plaintiffs'
22 Counsel for any purpose other than this action and the limited purposes set forth in
23 this Stipulated Second Interim Protective Order. Further, Plaintiffs' Counsel are
24 ordered to either return produced documents to the Toyota Defendants or to destroy
25 the produced documents immediately upon the conclusion of this action, including
26 all appeals.

27 IT IS FURTHER STIPULATED that the documents produced pursuant
28 to the Court's Order No. 3 containing personally identifiable information, or any of

1 the information contained therein, shall be handled by Plaintiffs' Counsel with the
2 highest care, including but not limited to the procedures that they would employ to
3 protect their own personally identifiable information; and the documents produced
4 shall be stored and secured in a manner designed to prevent access to persons other
5 than the above listed individuals, and that all such information stored in electronic
6 form shall be password protected.

7 IT IS FURTHER STIPULATED that neither the above listed Plaintiffs'
8 Counsel nor counsel for Toyota defendants shall intentionally initiate any
9 communication with any individual or entity that is identified by personally
10 identifiable information in the Toyota defendants' production documents pending the
11 issuance of a further Order of the Court dealing with communications with absent
12 class members and implementation of data privacy protections;

13 IT IS FURTHER STIPULATED that to the extent that any individual
14 who is identified in the Toyota defendants' production documents by personally
15 identifiable information is represented by counsel or is a party to this action entitled
16 *In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and*
17 *Products Liability Litigation*, Case No. 8:10ML 02151 JVS (FMOx), Plaintiffs' co-
18 lead counsel and members of the Personal Injury/Wrongful Death and Economic
19 Loss Class Action committees, listed above, may communicate with such individuals
20 through his/her counsel;

21 IT IS FURTHER STIPULATED that this provision is intended to
22 prevent Plaintiffs' Counsel and co-lead counsel for the Toyota defendants from
23 intentionally initiating contact with individuals whose name appears in the Toyota
24 defendants' production documents, which this Court has ordered to be produced on
25 July 2, subject to the provisions of the Court's June 1, 2010 Order subject to the
26 exceptions provided below. This provision is not intended to prevent the Toyota
27 defendants from acting in the normal course of their continuing business operations
28 (*except as provided below*), and the prohibition against contact is expressly limited to
Toyota counsel;

1 IT IS FURTHER STIPULATED that if a putative class member brings a
2 vehicle with a UA event to a dealership, Toyota and/or its dealers shall not
3 communicate with the putative class member about the UA without first providing
4 the putative class member with the following: (1) a statement that there is litigation
5 pending concerning UA and he or she may be a member of the proposed class,
6 (2) Toyota is opposing the claims of the proposed class and any claim by the putative
7 class member regarding UA, (3) Toyota seeks to test the vehicle and may use the
8 results of the testing and statements made by the class member against that putative
9 class member's potential claim, (4) Toyota will provide the class member with
10 contact information of class counsel and an 800 number manned by class counsel,
11 (5) Toyota shall notify class counsel of the name and contact information of the class
12 member, (6) schedule an inspection if one is sought by Toyota of the vehicle before
13 at least 5 business days after providing the potential class member with class
14 counsel's contact information so that he/she has sufficient time to contact class
15 counsel; (7) segregate and retain all information obtained as a result of any
16 inspection by Toyota and provide all information concerning any contacts, plus all
17 information obtained as a result of any inspection, to plaintiffs' counsel within 5
18 business days of initial contact or any inspection carried out by Toyota.

19 IT IS FURTHER STIPULATED that Plaintiffs' Counsel may contact
20 persons identified in the documents produced by Toyota for the purpose of
21 ascertaining if they might be a witness to a UA event and have other relevant
22 information to the litigation. Counsel initiating such contact shall clearly (1) identify
23 who they are and that class counsel obtained their name through a court order and
24 that Toyota did not provide their name and would not have absent a court order,
25 (2) shall state their purpose in contacting the witness, (3) shall indicate that the
26 witness has the right to refuse to speak with counsel or counsel's investigators. If
27 counsel determines that the individual might be a witness and that class counsel
28 might seek their testimony in the litigation, counsel will notify Toyota of that
determination. Toyota may then seek to depose that individual.

1 IT IS FURTHER STIPULATED that this Stipulated Second Interim
2 Protective Order Re Personally Identifiable Information is not intended to proscribe
3 inadvertent contact made without knowledge of the fact that the individual is among
4 those whose personally identifiable information is included with the Toyota
5 defendants' production documents, such as where the individual contacts Plaintiffs'
6 Counsel or Toyota counsel or requests contact with Plaintiffs' Counsel or Toyota
7 counsel, or where the participation of Toyota counsel is necessary as part of Toyota's
8 continuing business operations;

9 IT IS FURTHER STIPULATED that to the extent that any individual
10 who is identified in the Toyota defendants' production documents by personally
11 identifiable information is a *pro se* party or a witness in a legal proceeding in which
12 a Toyota-related entity is a party, Plaintiffs' Counsel or counsel for the Toyota
13 defendants may communicate with such individuals;

14 IT IS FURTHER STIPULATED that this Stipulated Second Interim
15 Protective Order Re Personally Identifiable Information does not in any way limit
16 counsel for Toyota defendants' ability to communicate with authorized Toyota
17 dealers, or Toyota employees and similar persons who are not exclusively customers
18 of Toyota, even if any of their personally identifiable information is identified in the
19 Toyota defendants' production documents; and,

20 IT IS FURTHER STIPULATED that this Stipulated Second Interim
21 Protective Order Re Personally Identifiable Information is entered into at this time to
22 facilitate the production of the Toyota defendants' documents as ordered by this
23 Court in Order No. 3.


24 IT IS FURTHER STIPULATED that this Stipulated Second Interim
25 Protective Order Re Personally Identifiable Information is entered without prejudice
26 to the Toyota Defendants to argue for redaction and other data privacy protections in
27 the MDL going forward, and will remain in effect until such time as (a) it is replaced
28 by another Protective Order of this Court implementing data privacy protections,
including but not limited to protections for personally identifiable information, or (b)

1 as otherwise agreed upon in writing between the parties through their counsel.
2 Nothing in this Stipulation shall alter the deadlines for production set by the Court,
3 and any documents that are confidential but otherwise discoverable and contain
4 personally identifiable information, shall be produced, subject to this Stipulated
5 Second Interim Protective Order Re Personally Identifiable Information, only after
6 entry of a final protective order in accordance with Order No. 3.

7 **ORDER**

8 IT IS SO ORDERED.

9
10 Dated: December 13, 2011



James V. Selna, United States
District Judge

1 Dated: November __, 2011

Respectfully submitted,

2
3 By: _____

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